



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY  
ATTORNEY GENERAL

January 8, 2010

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The Honorable Jeff Hoover  
House Minority Floor Leader  
Capitol Annex, Room 418  
Frankfort, KY 40601

Dear Representative Hoover:

I am in receipt of your hand-delivered letter of Wednesday, which was simultaneously released to the media, requesting me to join the efforts of some Republican Attorneys General to publicly consider a challenge to the constitutionality of the federal health care reform bill under consideration by Congress. Your caucus also requests that I call on the Senate to "remove the special language from the health care reform legislation which is unconstitutional, expensive, and inequitable to Kentuckians . . . ." I appreciate the interest of your caucus, and as I have often stated, my door and phone remain open to you on matters of mutual concern should you ever wish to communicate in such a manner.

Like you, I am concerned about the special provision regarding Medicaid funds for the state of Nebraska contained in the bill being considered. I find this provision distasteful, and more importantly, it is fundamentally unfair to the other 49 states, including Kentucky, that must make up for the special treatment of Nebraska. You can trust that I will be closely monitoring the debate over this provision, and will consider whether action by my office is necessary to protect Kentucky's Medicaid program. In doing so, I am acting in the best interests of our Commonwealth and without regard for political party.

As for your request that I investigate or challenge the constitutionality of a federal bill that has not been passed, I think your request is premature. As an attorney yourself, you know that a constitutional challenge to a bill that has not been passed or signed into law would not be ripe for consideration by courts. Additionally, it is questionable whether any state attorney general would have jurisdiction to investigate deliberations of the U.S. Senate. However, I will continue to work with my Attorney General Colleagues of both parties to ensure that all of our state Medicaid programs are treated in an acceptable manner.

As this legislation is not yet passed, it would be wasteful of me to utilize the limited (and declining) resources of this office on an investigation without jurisdiction or on a court challenge that is not yet ripe for consideration. In the meantime, I encourage you to contact

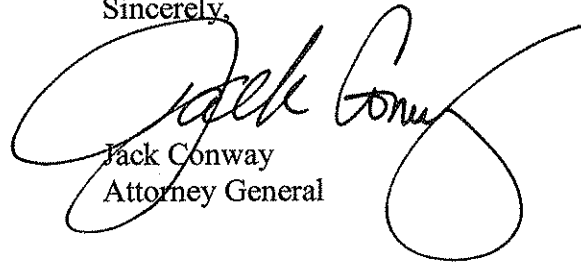


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your two United States Senators and Members of Congress regarding your concerns over various provisions in the proposed bill.

Thank you for sharing your concerns. Please rest assured that I will always endeavor to exercise the legal authority of this office in the best interests of Kentuckians and with calm discretion.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Conway", with a large, stylized flourish extending from the bottom right.

Jack Conway  
Attorney General